IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.(L) 761 OF 2007

Abhin Anant Desai
aged about 22 years,
Indian Inhabitant,
residing at A/24,
Vanshri, L.T.Road,
Opp. Diamond Talkies,
Borivali (West),
Bombay 400 092 ..Petitioner

versus

1. Mumbai University,
a body corporate constituted
under the State Universities Act,
having its office at Fort,
Bombay 400 032

2. Controller of Examination,
Mumbai University,
having Office at M.J.Phule Bhavan,
Examinations Section, Vidyanagari,
Santacruz (East),
Mumbai 400 098

3. Grievance Redressal Committee,
constituted by the Hon'ble Vice Chancellor
of the Mumbai University,
having office at Examinations Section,
M.J.Phule Bhavan,
Vidyanagari, Santacruz (East),
Mumbai 400 098

4. The Principal,
M.E.T. Institute of Pharmacy,
Bandra, Bombay 400 050 ..Defendants

Mr.A.P.Mishra i/b. M/s. K.R.Tiwari & Co. for the

Petitioner

Mr.Rui Rodriques for the Respondent No.3

CORAM : SWATANTER KUMAR, C.J. &
S.R.SATHE, J.,
Judgment Reserved on: April 3, 2007
Judgment Delivered on: April 19, 2007

JUDGMENT (PER S.R.SATHE, J.)

1. The petitioner is studying in 2nd year of Bachelor of Pharmaceutical Science in M.E.T. Institute of Pharmacy at Bandra, the institute affiliated with Mumbai University i.e. respondent No.1. The respondent No.2 is the Controller of Examination and Respondent No.3 is the Grievance Redressal Committee, constituted by the Vice Chancellor of the Mumbai University. The respondent No.4 is the principal of M.E.T. Institute of Pharmacy, Bandra.

2. In May, 2006 the petitioner appeared for the IVth Semester Examination of S.Y.B.Pharma. The result of the said examination was declared by the respondent No.1 University on 9.8.2006 and the petitioner received the mark list. The said mark list showed that the petitioner secured 19 marks in Pharmaceutical & Medicinal Chemistry II, 19 marks in Pharmaceutical Analysis II, and 16 marks in

Dispensing Pharmacy. As per rules, the marks required for passing the examination in the said subjects were 20 for each subject. Naturally, it was shown that petitioner has failed in the above mentioned three subjects.

3. According to the petitioner, he was fully prepared for examination and was confident to get through in the above subjects. So, as per the advise of his teachers and parents, he applied and requested the respondent No.2 for revaluation of his answer books of the above mentioned three subjects and paid the revaluation fees of Rs.1490/- on 25.9.2006. It is his case that considering the margin of marks by which he failed, the college authorities permitted him to attend the college regularly and even to appear for the examination of Vth Semester. However, his result of the said examination was not declared.

4. On 7th December, 2006 the petitioner received one letter from the Controller of Examination, University of Mumbai, whereby he was informed that as per his application regarding revaluation, his answer books in the subjects Pharmaceutical and Medicinal Chemistry II,

Pharmaceutical Analysis II and Dispensing Pharmacy, were placed before the Redressal of Grievance Committee, constituted by the Vice Chancellor, and the Committee scrutinized the answer books and recommended revaluation of the answer book in the subject of Pharmaceutical & Medicinal Chemistry II. On revaluation, it was found that the original marks allotted to his answer book were correct and there was no need either to increase or decrease the marks.

5. Being dissatisfied with the above letter, the petitioner filed the present petition. His grievance is that he had applied for the rechecking of the answer books of three subjects. The Redressal of Grievance Committee recommended revaluation of the answer book of only one subject and it was not proper on the part of the said Committee to do so. If revaluation would have been done of answer books of all the three subjects mentioned above, he could have received some marks. According to him, as he failed only by one mark in two subjects and by four marks in one subject if he would have been given one extra mark in the two subjects then he would have got the benefit of elevating to Vth semester. He has therefore prayed

that the Grievance Redressal Committee be directed to reassess his answer books by an independent examiner and the University be directed to permit him to appear for the VIth Semester examination scheduled to commence from 3.4.2007.

6. The learned advocate for the petitioner strenuously argued before us that the petitioner has failed in two subjects only by one mark, so if, in revaluation he gets one mark in each subject, he will be benefited and as such revaluation of the answer papers be directed and in the meantime the petitioner be allowed to appear for the examination of VIth Semester, particularly when he was allowed to appear for the Vth Semester. As against this, the learned Advocate for the respondents submitted that the University has framed specific rules and procedure to be followed when there is request for revaluation of the answer books. According to him, the Redressal of Grievance Committee constituted by the Vice Chancellor has in fact scrutinized the answer books of the petitioner of all the three subjects for which he had applied. However, the Committee, after scrutinizing the answer books found it necessary to carry out reassessment only in respect of one subject i.e. Pharmaceutical and

Medicinal Chemistry II, and accordingly the said answer book was reassessed, but even thereafter it was found that the marks allotted to the petitioner earlier were correct and there was no need to increase any marks. So, accordingly letter was sent to the petitioner about three months back and it is only now when the examination of the VIth Semester is to commence, he has approached to this Court. There is no justifiable reason to give direction regarding revaluation of the answer books and hence the petition be dismissed.

7. At the outset, it must be mentioned that the learned advocate for the petitioner has not at all pointed out to us that the University has committed any breach of its rules/directions/guidelines and it has caused prejudice to the petitioner. Admittedly, the Redressal of Grievance Committee is constituted by the Vice Chancellor and the said Committee consists of 1) Dean of the Faculty concerned, 2) Chairman of the relevant Board & Studies, 3) one subject expert teacher having fifteen years of teaching experience in the subject/paper, or Senior Moderator/Examiner in the subject/paper, nominated by the Vice Chancellor and 4) the controller of examinations or his nominee. The perusal of the

letter written by Respondent No.1 University to the petitioner dated 7.12.2006, copy of which is attached by the petitioner to this petition, indicates that the petitioner's answer books of all the three subjects mentioned in his application were placed before the Redressal of Grievance Committee and it was only after the scrutiny of the said answer books, the committee thought it fit to recommend the petitioner's answer book of only one subject for reassessment and accordingly the said answer book was reassessed and even after that it was found that the marks which were allotted to petitioner initially were correct. As per the procedure, it was not obligatory on the part of the Redressal of Grievance Committee to send the answer books of all the three subjects mentioned by the petitioner for revaluation. There is nothing on record to show that the decision taken by the Redressal of Grievance Committee in the instant case was incorrect. We also can not ignore the fact that the Redressal of Grievance Committee is a high level committee consisting of senior academicians. So, when such Committee after scrutinizing the answer books of all the three subjects mentioned by the petitioner found that only the answer book of subject Pharmaceutical and Medicinal Chemistry II

requires reassessment, the said answer book was reassessed. Unfortunately, even after such revaluation it was noticed that the marks allotted to the petitioner earlier were correct. Merely because he failed by only one mark, one can't say that after revaluation one mark should have been increased. If such view is taken it would in fact amount to bringing down the bench mark for passing.

8. Much is made about the fact that though the petitioner had failed in three subjects he was allowed to appear for the Vth Semester examination. We cannot ignore the fact that it was nothing but an indulgence shown to the petitioner by the College Authorities and that too because the petitioner had applied for rechecking and the college authorities thought that the petitioner should not suffer if after rechecking his marks are increased. However, that certainly does not give him any right for asking again revaluation of his answer books. So, there is no substance in the argument advanced by the learned advocate for the petitioner in this behalf.

9. The learned advocate for the University has brought to our notice the decision of the Division

Bench of this Court dated 11th August 2006 in Writ Petition No(L) 1799 of 2006 where in similar circumstances the Redressal of Grievances Committee had refused to refer the answer book for revaluation, but the Bench observed that in such circumstances, it will not be possible for the Court to grant any relief to the petitioner.

10. Incidently, it must be noted that though the petitioner was informed by the University vide their letter dated 7.12.2006 that as per his application the answer books were placed before the Redressal of Grievance Committee and the said committee scrutinised the answer books and recommended revaluation of the answer book of the subject of Pharma Chem and even thereafter it was noticed that the petitioner has failed in the above mentioned subject, the petitioner did not file the present petition immediately but kept mum for a period of about three months and it is only when the University did not allow him to appear for the VIth Semester examination the petitioner filed the present petition. So, under the circumstances, the petitioner has to be blamed for delay and latches.

10. In view of the above discussion, we have no

hesitation to hold that there is no substance in this writ petition.

11. Hence, the Writ Petition is dismissed, leaving the parties to bear their own costs.

(Chief Justice)

(S.R.Sathe, J.)